

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LEVENIA DEVEO	:	
Plaintiff	:	
	:	
V.	:	Civil Action No. 02-3251
	:	
UNITED STATES POSTAL SERVICE,	:	
Defendant	:	

ANSWER WITH AFFIRMATIVE DEFENSES

COMES NOW the United States Postal Service (hereinafter "the USPS" or "Postal Service"), defendant, by its undersigned counsel, and answers the complaint as follows:

The defendant denies the allegations of the complaint as stated. By way of further answer, the defendant asserts upon information and belief that the plaintiff paid \$7.00 to the USPS on January 5, 2002 to insure two parcels that plaintiff mailed from the Post Office, Olney Station, Philadelphia, to Boston; that the parcels were held by the addressee in Boston for several days and then returned to plaintiff; that on March 12, 2002, plaintiff made a claim for damages to articles contained in one of the parcels; and that, at plaintiff's request, the allegedly damaged article was returned to her on May 24, 2002 which resulted in the cancellation of her claim.

FIRST AFFIRMATIVE DEFENSE

The plaintiff has failed to exhaust her administrative remedies under the Domestic Mail Manual, Section S010 *et seq.*, incorporated by reference in applicable Postal regulations at 39 C.F.R. §§ 111.1-111.5. Accordingly, this Court lacks subject matter jurisdiction.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's damages, if any, are capped by the insurance coverage purchased, and are limited to the cost of repairing a damaged article or replacing a totally damaged article not

exceeding actual value at the time of mailing, less depreciation. The declared value of the item, at the time the insurance was purchased by plaintiff for a cost of \$7.00, was \$500.01 to \$600.00.

THIRD AFFIRMATIVE DEFENSE

The damage to the articles, if any, was not caused by the defendant or any of its agents and/or employees.

FOURTH AFFIRMATIVE DEFENSE

The complaint, to the extent that it pleads a tort action against the USPS for damaged mail, is barred by the doctrine of sovereign immunity pursuant to 28 U.S.C. § 2680(b).

WHEREFORE, the United States Postal Service demands judgment in its favor costs and other relief as the court may deem proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer was served upon the plaintiff, pro se, by depositing same in the United States mails, postage pre-paid, on August 21, 2002, addressed to:

Levenia Deveo
4292 C Street
Philadelphia, PA 19120

VIRGINIA R. POWEL
Assistant United States Attorney